

# **AN APPELLATE PRIMER:**

**The ABC's of Appeals, Special Actions, & Post-Conviction Relief**

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Phoenix, Arizona



## **JUDICIAL PERSPECTIVE ON APPELLATE PRACTICE**

Presented By:

**THE HONORABLE PHILIP ESPINOSA**

Arizona Court of Appeals, Division Two

**THE HONORABLE JON THOMPSON**

Arizona Court of Appeals, Division One

**THE HONORABLE CRANE McCLENNEN**

Maricopa County Superior Court

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1951 West Camelback Rd., Suite 202  
Phoenix, Arizona 85015

**Special Action Outline**  
**Hon. Philip G. Espinosa, Arizona Court of Appeals Division 2**  
**Hon Pat Orozco, Arizona Court of Appeals, Division 1**

**1. Background**

- a. Prior to the promulgation of the special action rules, writs of certiorari, mandamus and prohibition were all subject to unique procedural rules. This led to much frustration and yielded different rulings based on minute differences in the nature of the filing. In January of 1970 the Rules of Procedure for Special Actions (Ariz. R. P. Spec. Actions) were enacted to streamline and clarify the rules of procedure in filing any special action. Ariz. R. P. Spec. Actions 1; *Ariz. App. H.* § 7.1.2.<sup>1</sup>

- i. Special Actions in Courts of Original Jurisdiction

- 1. Ariz. R. P. Spec. Actions 1 (committee note)
  - 2. Acts of Public Boards or Officials
  - 3. Decisions of Boards of Adjustment or Zoning
  - 4. Public Records Requests

- ii. Special Actions in Superior Courts

- iii. Special Actions in Appellate Courts

- 1. When appeal is not an adequate remedy. *Ariz. App. H.* § 7.3.3.1.

- a. Evidentiary rulings involving claimed privilege
    - b. Remand for probable cause findings
    - c. Some bail matters
    - d. Occasionally orders permitting discovery that present problems beyond inconvenience and expense (discovery into basis of state's probable cause conclusion)
    - e. Procedural rulings that, given the facts, cannot be effectively appealed. (*Blakely*, changes of judge as a matter of right, denial of jury trial, denial of double jeopardy rulings)
    - f. Assertions of privilege

- 2. When no appeal is permitted. *Ariz. App. H.* § 7.3.3.5.
    - a. Orders not set forth in A.R.S. § 13-4033
    - b. *See* § 5, *infra*.

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<sup>1</sup>The Arizona Appellate Handbook, Appellate Court Special Actions was updated in 2010.

3. Special action review authorized by statute
  - a. A.R.S. §§ 13-753(I), 13-4022(I) (mental capacity in death penalty cases)
  - b. A.R.S. §§ 8-416, 13-447; Rule 2(a)(2), Ariz. R. P. Spec. Actions (victims' rights)
  - c. A.R.S. § 8-807(I) (CPS records)
  - d. A.R.S. § 13-4041(G) (appointed counsel in criminal or insanity hearing on appeal or post-conviction proceedings may seek special action review of determination of counsel's compensation)

## 2. Majority of Special Actions are Rejected

- a. Statistics from Division One – approximately 10% of special actions are accepted by the courts. (Fiscal Year 2010)

i. Special actions pending at start	79
ii. Special actions filed	319
1. Jurisdiction declined	275
2. Jurisdiction accepted	30
a. Decision order	37
b. Memorandum	3
c. Opinion	17
3. Open	65

- b. Statistics from Division Two – approximately 15% of special actions accepted. (As of Jan. 2009)

i. Special actions filed	310
1. Jurisdiction declined	212
2. Special Action dismissed	34
3. Jurisdiction accepted	48
a. Relief granted	38.5
b. Relief denied	9.5
c. Decision Order	19
d. Opinion	21
e. Memorandum Decision	5
ii. Pending as of March 19, 2012	16

3. **Discretion:** The exercise of special action jurisdiction is highly discretionary.

## 4. When not to file

- a. Special actions are not a substitute for appeal or for following the rules of criminal or civil procedure

- b. Special action jurisdiction will not be taken if there “is an equally plain, speedy, and adequate remedy by appeal.” *Ariz. R. P. Spec. Actions* 1(a).

**5. Courts have and do accept review of cases where:**

(*Ariz. App. H.* § 7.3.6)

- a. No other form of review is possible. *Ariz. App. H.* § 7.3.3.5.
  - i. Appeals from limited jurisdiction courts. *Ariz. App. H.* § 7.3.6.4.8.
  - ii. Certain contempt orders
  - iii. Allegations of Prior Convictions. *Ariz. App. H.* § 7.3.6.4.9.
  - iv. Modification of Orders of Restitution. *Ariz. App. H.* § 7.3.6.4.11.
  - v. Conditions of Probation. *Ariz. App. H.* § 7.3.6.4.12.
  - vi. Change of Judge. *Ariz. App. H.* § 7.3.6.4.13.
  - vii. Denial of right to jury trial, order granting jury trial
  - viii. Order requiring unanimous verdict to commit a person under the Sexually Violent Persons Act
  - ix. Mootness: challenge to pretrial detention procedures
  - x. Challenges related to plea agreements
  - xi. Order determining victims for witness exclusion purposes
  - xii. Challenge to sentence prior to sentencing
  - xiii. Discovery order allowing physical inspection of crime lab
- b. Appeal would be ineffective to correct error.
  - i. Change of judge as matter of right
  - ii. Plea agreements. *Ariz. App. H.* § 7.3.6.4.7.
- c. Purpose of right would be lost by awaiting appeal
  - i. Privilege cases. *Ariz. App. H.* § 7.3.6.3.8.
  - ii. Grand jury challenges. *Ariz. App. H.* § 7.3.6.4.4.
  - iii. Speedy Trial issues in DUI cases. *Ariz. App. H.* § 7.3.6.4.10.
- d. Issues of double jeopardy. *Ariz. App. H.* § 7.3.6.4.1.
- e. Issues of public significance. *Ariz. App. H.* § 7.3.6.2.
  - i. Criminal cases in which lower courts need an answer a frequently recurring question.
  - ii. Blood alcohol test issues. *Ariz. App. H.* § 7.3.6.4.6.
  - iii. Disqualification of Counsel. *Ariz. App. H.* § 7.3.6.4.15.

**6. Review is Limited to Three Questions – *Ariz. R. P. Spec. Actions* 3**

- a. Respondent’s failure to exercise discretion under a preexisting duty or to perform a duty required by law entailing no discretion.
- b. Respondent proceeding or threatening to proceed without or in excess of jurisdiction or legal authority.
- c. Whether a determination was arbitrary and capricious or an abuse of discretion.

## 7. Procedure

- a. Ten rules governing special actions:
  - i. See Ariz. R. P. Spec. Actions 1-10.
  - ii. Petitions must comply with Ariz. R. Crim. P. 31.12 or 31.13. *Ariz. App. H.* § 7.5.1.2.
- b. **Who**
  - i. Affected parties and victims may seek special action relief. Ariz. R. P. Spec. Actions 2; *Ariz. App. H.* § 7.4.1.
- c. **How** – Ariz. R. P. Spec. Actions 7(e); *Ariz. App. H.* § 7.5.
  - i. Jurisdictional statement
  - ii. Statement of the issues
  - iii. Statement of facts
  - iv. Argument
  - v. Conclusion
  - vi. Certificate of compliance
  - vii. Appendix should include:
    - 1. Motions, responses and replies
    - 2. Transcripts if available (ex. *Crawford* issue)
- d. **When**
  - i. Special action proceedings do not extend the time for taking an appeal, special action is not an appropriate avenue for an untimely appeal.
  - ii. “Laches will generally bar a claim when the delay is unreasonable and results in prejudice to the opposing party.” *Sotomayor v. Burns*, 199 Ariz. 81, 83, ¶ 6, 13 P.3d 1198, 1200 (2000).
  - iii. The defense of mootness applies to special actions, but exceptions include significant questions of substantial importance and recurring issues that evade review.
- e. **Where** - Ariz. R. P. Spec. Actions 4(b).
  - i. Superior Court: County in which the administrative body or officer has or should have determined the matter to be reviewed
  - ii. Court of Appeals: Before whichever division has territorial jurisdiction over the county in which the action might have been brought had it been presented to a Superior Court.
  - iii. Supreme Court: Original jurisdiction provided by Arizona Constitution – rarely invoked or accepted.

## 8. Recourse If Jurisdiction Not Accepted or Party Wishes to Challenge Results

- a. Petitioner can file a petition for review of the declination of special action jurisdiction, or decision accepting jurisdiction and granting or denying relief, with the Arizona Supreme Court. Ariz. R. P. Spec. Actions 8(b); *Ariz. App. H.* § 7.11.1.

- b. Petitioner may also bring an appellate court special action to challenge a superior court special action determination. *Ariz. R. P. Spec. Actions; Ariz. App. H. § 7.10.2.*
- c. Declination of jurisdiction does not determine success on appeal because it is neither a decision on the merits nor law of the case.

#### **9. Common Mistakes - See Do's and Don'ts of Special Actions**

- a. Filing a special action does not stay proceedings below. *Ariz. R. P. Spec. Actions 5.*
- b. If requesting a stay, petitioners must first request a stay in the lower court. *Ariz. App. H. § 7.7.2.*
- c. Failure to provide appropriate records or pleadings pursuant to Rule 7(e) will result in denial of the request for special action jurisdiction.
- d. There is no record other than what you create and provide.

#### **10. Ramifications**

- a. Penalties can be assessed pursuant to A.R.S. § 12-2106 as sanctions for frivolous appeals or appeals for the sake of delay. *Ariz. App. H. § 7.3.7.*

#### **11. Inside View:**

- a. Division 1 procedure *Ariz. App. H. § 7.14.2.*
  - i. Approximately four weeks prior to a special action calendar, a “hot panel” is assigned to determine which petitions to consider. This panel resolves all stay requests and motions. The panel remains hot until the panel’s calendar is filled or twenty days prior to the special action conference.
- b. Division 2 procedure *Ariz. App. H. § 7.14.3.*
  - i. Special actions are immediately assigned to a regular panel and forwarded to the presiding judge of that panel.
  - ii. The presiding judge reviews the petitions and determines whether a response should be filed, entering an order setting any briefing schedule and directing service.
  - iii. Stay requests are usually heard by one judge, typically the presiding judge of each panel.
  - iv. Division Two accepts and greatly encourages electronic filing of all special actions and related attachments.

#### **12. Recent Opinions:**

*Salvation Army v. Bennett*, 629 Ariz. Adv. Rep. 11 (App. Mar. 2, 2012, Div. 2). Defendants in underlying personal injury action challenged respondent judge’s order requiring them to produce summaries of interviews Salvation Army employees and

volunteers, arguing the summaries were protected by attorney-client privilege and work-product doctrine. Court granted relief, finding employee summaries were protected by attorney-client privilege.

*State v. Simon*, 628 Ariz. Adv. Rep. 53 (Ct. App. Feb. 16, 2012, Div. 2). Respondent judge's preclusion in DUI prosecutions of evidence resulting from blood samples reversed, given that a blood alcohol concentration report was not yet available to the state to disclose to defendants.

*Star Pub. Co. v. Bernini*, 228 Ariz. 490, 268 P.3d 1147 (App. 2012, Div. 2). Although moot because trial had ended, the court accepted jurisdiction to decide whether respondent judge had abused her discretion by denying request to photograph jury trial pursuant to Rule 122, Ariz. R. Sup. Ct., because it was an issue of public importance and likely to recur.

*State v. Leonardo, ex rel. County of Pima*, 226 Ariz. 593, 250 P.3d 1222 (App. 2011, Div. 2). Court accepted jurisdiction of state's special action and granted relief from order requiring victim of an offense of which defendant had been convicted to testify in another criminal proceeding involving different victim. Court noted A.R.S. § 13-4437(A) and Rule 2(a)(2) authorize victims to enforce rights under Victims' Bill of Rights through special action.

*State v. Lee*, 226 Ariz. 234, ¶ 2, 245 P.3d 919, 920 (App. 2011, Div. 2). Special action jurisdiction accepted to review order compelling pre-trial depositions of crime victims in civil forfeiture proceeding related to criminal proceeding based on A.R.S. § 13-4437(A) and Rule 2(a)(2), Ariz. R. P. Spec. Actions.

*State v. Miller*, 226 Ariz. 190, ¶ 3, 245 P.3d 454, 455 (App. 2011, Div. 2). Court granted special action relief reversing respondent judge's intended use of Revised Arizona Jury Instruction (RAJI) in underlying criminal proceedings; the state had no adequate remedy by appeal, the RAJI could mislead the jury, and the question was "likely to arise again."

*Osterkamp v. Browning*, 226 Ariz. 485, 250 P.3d 551 (App. 2011, Div. 2). Court accepted jurisdiction and granted relief, finding defendant was entitled to counsel in second post-conviction proceeding to investigate whether counsel in first, "of-right" post-conviction proceeding had been ineffective. Court accepted jurisdiction because challenged order was interlocutory in nature. Additionally, court found even though defendant could challenge denial of counsel in petition for review, once final order was entered in that post-conviction proceeding, Rule 32 review was not the same as review by direct appeal, thus there was no true remedy by appeal.

*Rasmussen v. Munger*, 227 Ariz. 496, 260 P.3d 296 (App. 2011, Div. 2). Jurisdiction accepted to review respondent judge's denial of defendant's motion seeking release from jail following completion of first of two consecutive jail terms imposed as a condition of consecutive terms of probation; issue was a purely legal one not fully addressed by case law and defendant had no remedy by appeal.

*Lear v. Fields*, 226 Ariz. 226, 245 P.3d 911 (App. 2011, Div. 2). Court accepted jurisdiction to address constitutionality of newly enacted A.R.S. § 12-2203, governing admissibility of expert testimony; petitioner/defendant denied relief on the ground respondent judge did not abuse his discretion in finding statute violated separation of powers doctrine and was therefore unconstitutional.

*State ex rel. Montgomery v. Duncan*, 288 Ariz. 514, 269 P.3d 690 (App. 2011, Div. 1). State sought special action relief from trial court's pretrial order permitting testimony at trial regarding victim's prior sexual conduct. Court accepted jurisdiction because issue was not reviewable on appeal if there was an acquittal, and granted relief.

*Brewer v. Rees*, 228 Ariz. 254, 265 P.3d 436 (App. 2011, Div. 1). Trial court's order that defendant in a drug prosecution be held without bail due to failure to fulfill conditions of deferred prosecution program upheld on special action review. Although any issues involving defendant's pretrial incarceration or release would have become moot upon trial, the purely legal issue was of statewide importance and could readily recur.

*Mario W. v. Kaipio*, 228 Ariz. 207, 265 P.3d 389 (App. 2011, Div. 1). Seven juveniles, subjects of juvenile referrals in superior court, petitioned for special action relief regarding necessity of their compliance with statutory requirement to submit DNA sample prior to release pursuant to A.R.S. § 8-238. Court accepted jurisdiction because matter involved interpretation of a statute, was a matter of first impression, presented a pure question of law, and was a matter of statewide importance. Relief was granted in part; the taking of DNA samples was proper as to five juveniles but unconstitutional as to remaining two, absent probable cause to believe they committed an offense listed in § 8-238.

*Costa v. Mackey*, 227 Ariz. 565, 261 P.3d 449 (App. 2011, Div. 1). Criminal defendant obtained special action review and relief from trial court's order setting \$75 million cash-only bail for continuous sexual abuse of child. State cross-petitioned for vacatur of trial court's ruling that the charges were bondable under state constitution. Court accepted jurisdiction to review bond amount because issue would become moot once trial was conducted and there was no appeal remedy. Court also accepted jurisdiction to review denial of motion for change of judge where bail ruling formed sole basis for motion for change of judge but denied relief. Finally, court declined jurisdiction of trial court's ruling that offense was bondable because state improperly raised issue in response to the defendant's special action petition, instead of filing its own petition. Even had the state's response been labeled a "cross-petition," the Ariz. R. P. Spec. Actions do not permit such a motion.

*State ex rel. Montgomery v. Whitten*, 228 Ariz. 17, 262 P.3d 238 (App. 2011, Div. 1). Court accepted jurisdiction of trial court order directing that physicians who treated child victim to be compensated as expert witnesses if state called them to testify at trial. State could not appeal from the interlocutory order and the issue was of first impression and statewide importance. Court granted relief and directed counsel to limit themselves to fact questions because state had avowed physicians were called as fact witnesses.

*Winterbottom v. Ronan*, 227 Ariz. 364, 258 P.3d 182 (App. 2011, Div. 1). Court accepted jurisdiction of victims' challenge to trial court denial of motion for protective order against providing deposition testimony for perpetrator's malpractice action against his attorney. Denial of testimonial privilege, right not to be deposed or interviewed cannot be remedied by appeal. Relief was denied because trial court properly exercised its discretion in balancing equities and determining Victim's Bill of Rights did not protect victim from providing deposition to party adverse to perpetrator.

*Haag v. Steinle*, 227 Ariz. 212, 255, P.3d 1016 (App. 2011, Div. 1). Court granted special action relief to defendant from pretrial release order that defendant remain in the county on electronic monitoring. Case raised legal question of first impression and statewide importance that could recur, and would be moot if not reviewed by special action.

*State ex rel. Smith v. Reeves*, 226 Ariz. 419, 250 P.3d 196 (App. 2011, Div. 1). Court accepted jurisdiction and granted relief from trial court order directing parents of fatally injured child victim to submit to defense interview. Court determined jurisdiction was appropriate, as parent's rights under the Victim's Bill of Rights, A.R.S. §28-661(A), (B) could not be adequately protected by appeal.

*Black v. Coker*, 226 Ariz. 335, 247 P.3d 1005 (App. 2011, Div. 1). Court accepted special action jurisdiction over trial court's denial of defendant's motion to remand grand jury indictment for new determination of probable cause, based on the prosecutor's failure to inform jury of his written request to appear and present evidence. Although defendant's challenge to the denial must be made by special action because the ruling is not reviewable on direct appeal, relief was denied.

*Bashir v. Pineda*, 226 Ariz. 351, 248 P.3d 199 (App. 2011, Div. 1). Defendant granted special action relief from trial court's denial of her motion to remand to the grand jury for a new probable cause determination where prosecutor failed to communicate to grand jury testimony and evidence she wished to present.

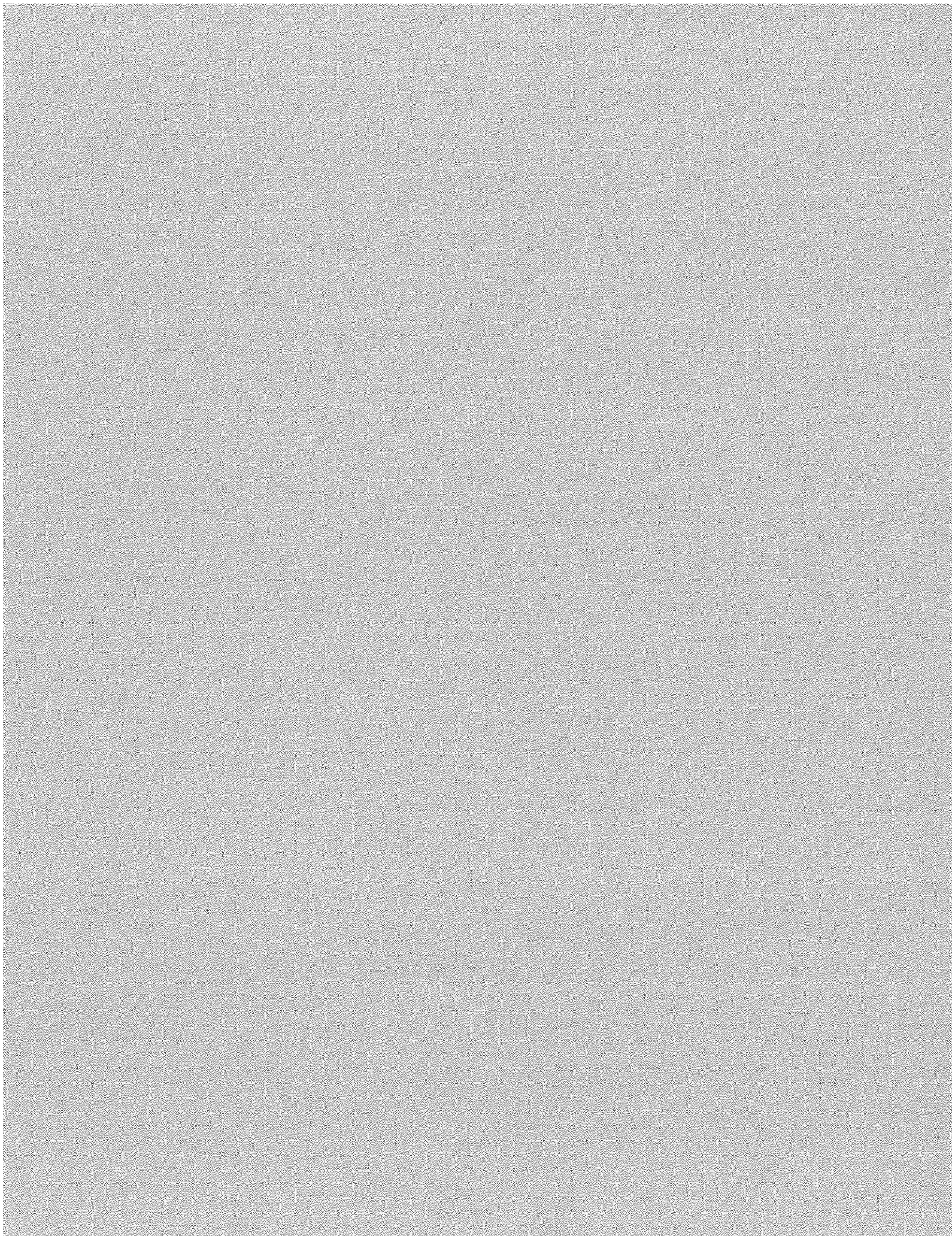
*Jacobsen v. Lindberg*, 225 Ariz. 318, 238 P.3d 129 (App. 2010, Div. 1). Defendant's guilty plea included conditions that he submit to a polygraph examination. The court granted special action relief from trial court's denial of defendant's motion to preclude the pre-polygraph questionnaire and exam on the grounds that they violated his Fifth Amendment rights.

*State v. Nichols*, 224 Ariz. 569, 233 P.3d 1138 (App. 2010, Div. 2). Court accepted jurisdiction to address state's claim that trial judge erred by compelling victim to submit to a pretrial interview by defense counsel. Important legal issues related to an ambiguity in the definition of "victim" in Arizona's Victims' Bill of Rights, which excluded from the definition of "victim" any person "in custody for an offense," and whether Arizona voters had intended to deny victims' rights not only to inmates against whom a criminal offense has been committed while they are incarcerated but to exclude as well those who, after having been victimized, subsequently are taken into custody and remain incarcerated for any reason.

*Potter v. Vanderpool*, 225 Ariz. 495, 240 P.3d 1257 (App. 2010, Div. 2). Court accepted jurisdiction noting superior court had already reviewed and reversed justice court's findings in two cases that there existed reasonable grounds for additional competency examinations and proceedings, pursuant to Rule 11.2, and had found defendants competent, remanding cases to justice court for trial. *See also Pima County v. McCarville*, 224 Ariz. 366, ¶ 6, 231 P.3d 370, 371-72 (App. 2010, Div. 2), in which court accepted jurisdiction, noting the petition raised "potentially recurring question."

*State v. Nichols (Nordstrom)*, 219 Ariz. 170, 195 P.3d 207 (App. 2008, Div. 2). Court accepted jurisdiction to address what evidence may be admitted during sentencing aggravation phase after remand based on *Ring* and a Div. 2 decision in prior special action.

*Andrew G. v. Peasely-Fimbres*, 216 Ariz. 204, 165 P.3d 182 (App. 2007, Div. 2). Question whether filing a subsequent delinquency petition extends a juvenile's probationary period beyond the ordered termination date was moot because juvenile had been adjudicated delinquent and disposition was imminent, but the issue was deemed of statewide importance and likely to recur, and court granted relief.



## **TIPS FOR ORAL ARGUMENT**

Hon. Philip G. Espinosa  
Arizona Court of Appeals, Division Two  
Christina M. Cabanillas

Deputy Appellate Chief, U.S. Attorney's Office, District of Arizona

### **I. Preparation**

- A. If unfamiliar with the court/panel, talk to other attorneys. Watch an argument before that panel if possible.
- B. Research whether judges on the panel have written decisions or articles about your issues.
- C. Update your research and consider filing supplemental citation motions or letters when appropriate.
- D. Keep it simple. This is a “highlights” show.
- E. Consider what you will take to the podium, including a tabbed appellate notebook.
- F. Outline your argument in a manner easy to follow at a glance.
  - 1. Some attorneys write out portions of oral argument to narrow down the best words, and then whittle it down to bullet points.
  - 2. Time will be short, so focus on the main themes and facts which support argument(s).
  - 3. Prepare a “cut-to-the-chase” argument in the event you run out of time.
- G. Generally, if a legal principle is unclear, be prepared to discuss the law in more detail. Otherwise, prepare to discuss the record and why your position should prevail.
- H. Know your record. Have important references at hand.
- I. Do not take your position for granted. Think about your case critically and prepare to address any weaknesses.

- J. Consider not only what questions the court will ask, but exactly *how* you will answer those questions.
- K. Practice articulating aloud. This helps narrow down important concepts and key phrases, and provides a sense of how much time you will use.
- L. Moot Court
  - 1. Consider staging a moot court before the argument.
  - 2. Use time limits and take the practice as seriously as the argument.
  - 3. Argue your case before several attorneys acting as judges. Use both inexperienced and experienced attorneys and get their feedback.
  - 4. Evaluate effectiveness of moot presentation critically. Make necessary adjustments.

## II. **Presentation of Argument**

- A. Be early.
- B. Focus on a few main points. Consider the heart of your argument.
- C. Argument should be conversational and respectful. Do not read a prepared argument and do not rehash your brief(s).
- D. Be cognizant of the time limits and the podium clock.
- E. Avoid distracting mannerisms or expressions.
- F. Appellant
  - 1. Pick one or two main points.
  - 2. Use an introduction to “signpost” your argument for the court, especially if multiple issues were presented in the briefs.
  - 3. Reserve time for rebuttal and keep an eye on the clock. Always keep rebuttal short and focused.

G. Appellee

1. Be flexible. Listen to questions posed by the judges and attempt to address those concerns in your argument.
2. Make a note of questions favorable to your position and incorporate them in your argument.
3. Refer to favorable standards of review. (“The district court’s factual finding on that point was not clearly erroneous.”)

**III. Answering Questions**

- A. Welcome questions from the panel as a great opportunity to persuade and clarify. Do not view them as an impediment.
- B. Consider fairness and common sense.
- C. Do not restate the facts. Use them to make a point.
- D. When asked a question, answer “yes” or “no,” and then elaborate.
- E. Do not engage in hyperbole or drama. Employ reasoned advocacy.
- F. Think about the case from the court’s perspective. Expect hypotheticals which may test the limits of your position.
- G. Know the limits of your argument, pay attention to the questions, and use narrow and specific answers. Pause before answering, and avoid impulsive or hostile answers. Resist the temptation to make sweeping or unnecessary statements that will prompt collateral questions.
- H. Be courteous. When a judge speaks, stop talking, and listen respectfully. Be professional to opposing counsel.
- I. Do not speak too rapidly. Two or three points expressed clearly will have more impact than nine points made quickly.
- J. Address an issue when asked. Do not say “I’ll get to that later.”
- K. Answer “off-the-mark” questions respectfully.
- L. Learn to recognize “softballs.” Many great opportunities are missed because the advocate is overly focused on his/her argument or agenda.

- M. If asked a question about the record or facts, provide the record reference with your answer.
- N. Stand your ground under persistent questioning. Be reasonable, but do not be too anxious to please any judge.
- O. Pay attention to the clock. If time gets short, respectfully move on. Use the “cut-to-the-chase” argument if necessary.
- P. If you do not know the answer to a question, be candid about it. Consider offering to file a supplemental memorandum.
- Q. Do not feel obliged to use all of your time.
- R. Be yourself.

### **After Argument**

Stay abreast of new authority. Consider filing a supplemental citation letter or motion if necessary.

### **After Decision**

- A. Calendar deadlines for a motion for reconsideration or petition for review.
- B. Remember not all cases warrant a motion for reconsideration or petition for review. Consider applicable rules and policies.
- C. Consider whether appellate court mandate should be stayed if seeking review.
- D. When mandate issues, calendar any new deadlines (e.g., re-trial, suppression hearing, post-conviction relief, etc.).

### **More on Appellate Advocacy**

Alex Kozinski (Ninth Circuit Judge), The Wrong Stuff, 1992 B.Y.U. L. Rev. 325 (1992).

Aldisert, Ruggero J. (Senior Third Circuit Judge), Winning on Appeal - Better Briefs & Oral Argument, Clark Boardman Callaghan (© 1992).